UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

JOHN DUDLEY,	)	
	)	
Plaintiff	)	
	)	
v.	)	Civ. No. 98-65-B
	)	
AUGUSTA SCHOOL DEPARTMENT, et al.,	)	
	)	
Defendants	)	

ORDER AND MEMORANDUM OF DECISION

BRODY, District Judge

Plaintiff John Dudley ("Plaintiff") brought suit against Defendants Augusta School Department ("the Department"), H. Graham Nye ("Nye"), and Maynard R. Young ("Young"), alleging that they demoted and constructively discharged him because of his disability and because he engaged in protected speech. On November 9, 1998, the Court granted summary judgment to Defendants as to Plaintiff's disability discrimination claims. The Court denied summary judgment, however, as to Plaintiff's: (i) general assertion of constructive discharge, (ii) First Amendment claim against the Department, Nye, and Young, and (iii) Maine Whistleblowers' Protection Act ("MWPA") claim against the Department only. Upon a joint motion by the parties, the Court dismissed the Department from the First Amendment claim on December 14, 1998. On December 16, 1998, a jury determined that Plaintiff was constructively discharged and found Nye and Young liable on the First Amendment claim in the amount of $200,000.00. The Court rendered a verdict for the Department on the MWPA claim. Before the Court is Nye and Young's Motion for Judgment as a Matter of Law or, in the alternative, for a New Trial.

Nye and Young argue that Plaintiff presented no evidence at trial supporting a verdict against them, and that the jury's verdict only could be a product of inference and speculation. In addition, they contend that the evidence did not support a finding of constructive discharge. The Court rejected similar arguments by Nye and Young on three occasions, once when they moved for summary judgment, and twice when they moved for judgment as a matter of law at trial. A jury verdict may be set aside "only after a determination that the evidence could lead a reasonable person to only one conclusion." Hendricks & Assoc., Inc. v. Daewoo Corp., 923 F.2d 209, 214 (1st Cir. 1991) (internal quotation and citations omitted). A court is "compelled . . . even in a close case, to uphold the verdict unless the facts and inferences, when viewed in the light most favorable to the party for whom the jury held, point so strongly and overwhelmingly in favor of the movant that a reasonable jury could not have arrived at this conclusion." Hendricks & Assoc., Inc., 923 F.2d at 214 (internal quotation and citation omitted). Having reviewed the trial record, the Court declines to disturb the jury verdict. The evidence presented at trial did not compel a verdict in Nye and Young's favor. The Court is satisfied that a reasonable jury could have concluded that Plaintiff's protected speech was a substantial and motivating factor in the action taken against him by Nye and Young, and that such action would not have been taken in absence of the protected speech. Furthermore, the evidence presented on the issue of constructive discharge permitted a finding in Plaintiff's favor.

The Court also declines to order a new trial. A court "may not upset the jury's verdict merely because he or she might have decided the case differently." Velasquez v. Figueroa-Gomez, 996 F.2d 425, 428 (1st Cir. 1993). Rather, a new trial is appropriate only if "the verdict was so clearly against the weight of the evidence as to amount to a manifest miscarriage of

justice." PH Group Ltd. v. Birch, 985 F.2d 649, 653 (1st Cir. 1993). As discussed above, the Court cannot conclude that the weight of the evidence clearly dictated a verdict different than the one rendered by the jury. Therefore, a new trial is not required.

For the reasons discussed above, Nye and Young's Motion for Judgment as a Matter of Law or, in the alternative, for a New Trial is DENIED.

SO ORDERED.

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MORTON A. BRODY
United States District Judge

Dated this 12th day of March, 1999.